

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 8, 2018

PSF No.: 17KD-103

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

**KAUAI**

Issuance of Direct Lease to the Roman Catholic Church in the State of Hawaii, Saint Theresa School, for Parking Purposes, Kekaha House Lots, Kekaha, Waimea, Kauai, Tax Map Keys: (4) 1-3-004:054 and (4) 1-3-011:001.

**APPLICANT:**

Roman Catholic Church in the State of Hawaii, Saint Theresa School (St. Theresa School).

**LEGAL REFERENCE:**

Sections 171-16 and 171-43.1, Hawaii Revised Statutes (HRS), as amended.

**LOCATION:**

Portion of Government lands of Kekaha House Lots situated at Kekaha, Waimea, Kauai, identified by Tax Map Keys: (4) 1-3-004:054 and (4) 1-3-011:001, as shown on the attached maps labeled Exhibit A1-A3.

**TMK/ DISTRICT/ ZONING/ ENCUMBRANCE/ AREA:**

TAX MAP KEY	DISTRICT	ZONING		ENCUMBRANCE	AREA (acres)
		SLU	CZO		
(4) 1-3-004:054	Kekaha, Waimea	Urban	RS	Vacant	1.130
(4) 1-3-011:001	Kekaha, Waimea	Urban	RS	Vacant	.095
<b>TOTAL:</b>					<b>2.080</b>

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_\_ NO   x

CHARACTER OF USE:

For parking purposes.

LEASE TERM:

Ten (10) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480.00 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005)

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

No rental reopenings scheduled for the 10-year term of the lease.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Currently, subject parcels do not have utility services, but if needed, it can easily be provided, at Permittee's own cost. Both parcels are level and flat, at an elevation of 5-10 feet. The ground consists primarily of lawn grasses. There is an existing drainage ditch that bisects the two properties, and is maintained by both the County of Kauai and the Kekaha Agriculture Association. Legal accesses to property are located off Kamualii Highway, Elepaio Road and Iwa Road. Staff has verified that the subject property is a legally subdivided lot. No encumbrances exist on the property:

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed: YES x NO

Registered business name confirmed: YES x NO  
Applicant in good standing confirmed: YES x NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for the costs of public notice pursuant to section 171-16 HRS; and
2. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Board of Land and Natural Resources (Board) typically issues leases to private individuals and entities via public auction. The new rent at reopening is established at fair market rental value by an appraiser. If the tenant or prospective tenant is an eleemosynary (charitable) organization, the Board may issue the lease, at a nominal consideration, by direct negotiation. The statute providing the Board this authority is as follows:

**§171-43.1 Lease to eleemosynary organizations.** The Board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service. [L1970, c 83, §5; am L 1971, c 100, §1; am L 1982, c202, §1; am l 1991, c 212, §3]

It is noted that the 501(c)(1) organization must be both organized by an Act of Congress and be an instrumentality of the United States, while the 501(c)(3) organization is a privately organized charitable organization.

When considering lease dispositions to eleemosynary organizations or religious organizations, the Board may issue the lease by public auction at fair market rent, or by direct negotiation at an amount below fair market rental (i.e., nominal consideration). On May 13, 2005, the land Board established a Minimum Rent Policy that stated, among other things, that the Minimum Rent for lease be no less than \$480 per year. Land Division generally issues leases at fair market rental value as determined by an appraiser or via public auction. Staff believes "nominal consideration" under section 171-43.1, HRS ought to be anywhere between fair market rent, or lower, but not lower than the minimum rent of \$480.



The Roman Catholic Church in the State of Hawaii's, Saint Theresa School, a non-profit has operated as a school for over fifty (50) years and qualifies for a direct lease. The St. Theresa School campus has very limited parking space available; therefore, the school is requesting a direct lease for parking purposes. In the past several years, the school has been approved a right-of-entry for parking for its Annual St. Theresa School Carnival. The subject area is basically a field of lawn grass.

Staff is recommending issuance of a direct lease with a term of ten years at minimum rent, as the Roman Catholic Church in the State of Hawaii, St. Theresa School, was confirmed a domestic non-profit corporation by letter dated June 2, 2017 from the IRS, Department of the Treasury. St. Theresa Church/School is currently exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. (Exhibit C)

St. Theresa School's reported budget for Fiscal Year 2016-17 has generated about \$705,385.00 in income, with expenses of \$708,125.00. The school was left with a negative cash flow of \$2,740.00 for the year. The shortfall is paid-off by donations from the church congregation. (Exhibit D)

Through the years, the prior uses of the State-owned parcel, as a parking area, have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources. As such staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing. St. Theresa intends to utilize the State properties as an "as is" condition. It has no plans to improve the property by paving or constructing any structures on the demised premises.

St. Theresa School will not be required to maintain the drainage ditch. The County of Kauai and the Kekaha Agriculture Association have a Waimea River Agreement, to share the responsibility to clear the river and adjacent ditches during times of potential flooding.

St. Theresa School has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

To date, no other parties have expressed interest to utilize/lease the subject area.

Although there are possible higher or better uses for the subject area, no one other than St. Theresa School has expressed interest for a disposition. The subject State parcel is in close proximity to Kekaha Beach, and as a result, might not be a suitable location for constructing any type of improvements.

The mission statement of St. Theresa School is to provide dedicated guidance to its students in their religious upbringing. St. Theresa School believes faith, Ohana (family)



and quality education are the pillars upon which they build tomorrow's leaders. The school's motto is to "Soar toward success: spiritually, academically, physically and in Service to the Community."

St. Theresa School plays a critical role in helping the West side community by supporting area organizations such as the Kekaha Pop Warner Association, Kekaha Youth Baseball Organization, E Ola Mau Community, Kilohana Paddling Club, Ke Kula O Niihau and Waimea High School, and many others, by offering use of the St. Theresa School Dinning Hall and kitchen facilities. The school also loans its carnival supplies to the Committees for the Annual Westside Fourth of July Celebration and the Annual Waimea Town Celebration. The St. Theresa School/Church and the Kekaha community is a very close knit community. The Church is always willing to support the needs of the keiki (children) and Kupuna (elderly), in efforts to give back to the community.

There are no plans to improve the parking area (e.g.: dropping gravel or paving). St. Theresa School intends to utilize the subject area in an "as is" condition.

On August 4, 2017, various government agencies and interest groups were solicited for comments.

AGENCIES	COMMENTS
<b>County of Hawaii:</b>	
Planning Department	No response
Public Works	See attached comments (Exhibit E)
<b>State of Hawaii:</b>	
DLNR - Historic Preservation	No response
<b>Other Agencies/ Interest Groups:</b>	
Office of Hawaiian Affairs	No response


The County Public Works provided comments relating to: 1) an existing ditch on the subject property, 2) access points onto the adjacent government roadway, and 3) compliance of the County's Sediment and Erosion Control Ordinance No. 808. (Exhibit E)

**RECOMMENDATION:** That the Board:

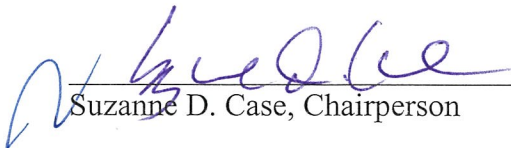
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to Saint Theresa School covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current (non-profit) lease document form, as may be amended from time to time;
  - B. Should Applicant propose any future improvements upon the leasehold property that triggers Hawaii Revised Statutes (HRS) Chapter 343 review, Applicant shall be responsible for compliance with HRS Chapter 343, as amended;
  - C. Lessee shall be made aware that vehicular ingress and egress is limited to a single access point for each property. That the County Public Works Engineering Division shall be consulted to developing a conceptual parking/traffic circulation plan for the subject properties;
  - D. All grubbing and grading work, if any, shall be in compliance with the County's Sediment and Erosion Control Ordinance No. 808;
  - E. Review and approval by the Department of the Attorney General; and
  - F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

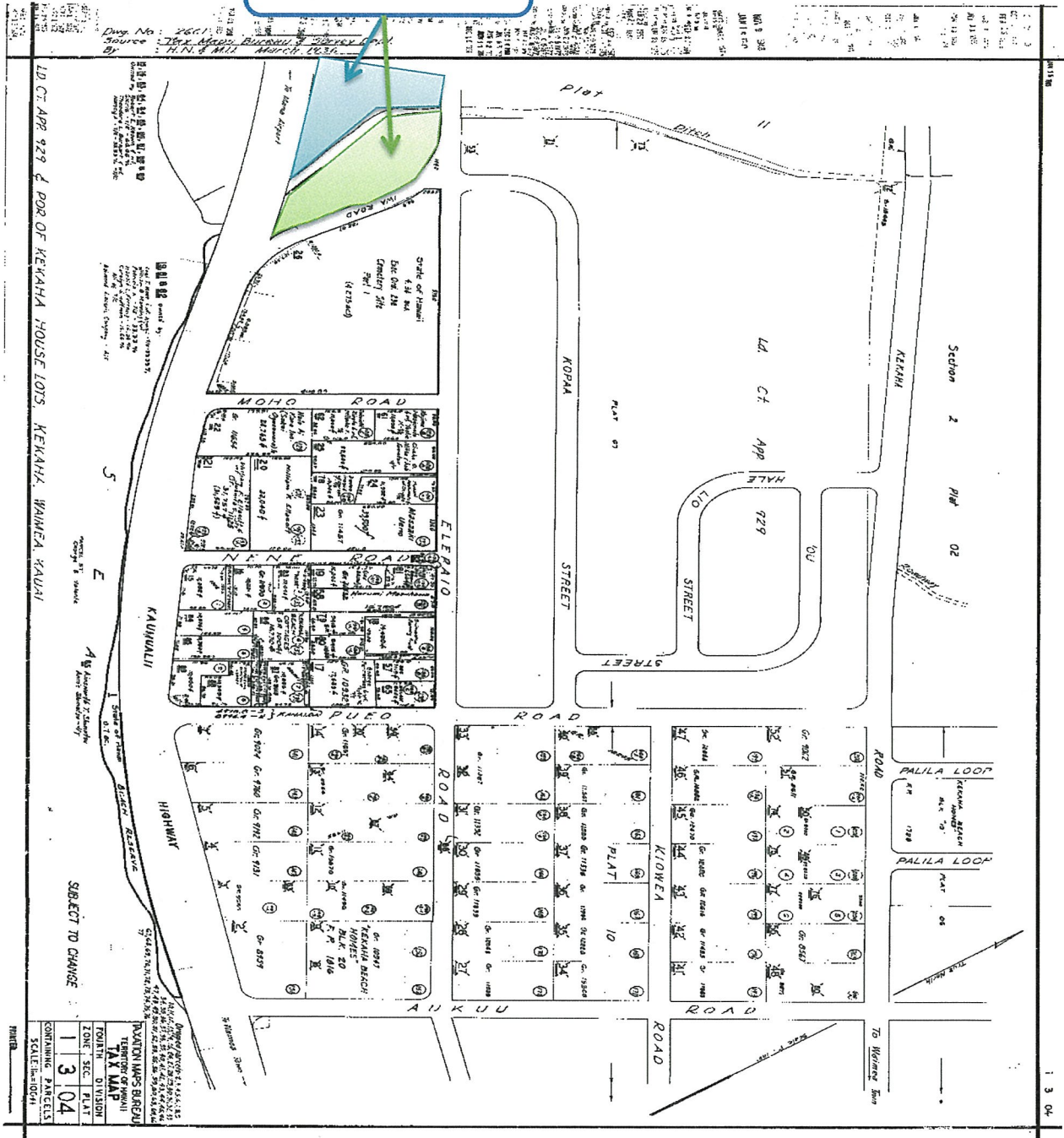
Respectfully Submitted,

  
\_\_\_\_\_  
Wesley T. Matsunaga  
District Land Agent

APPROVED FOR SUBMITTAL:

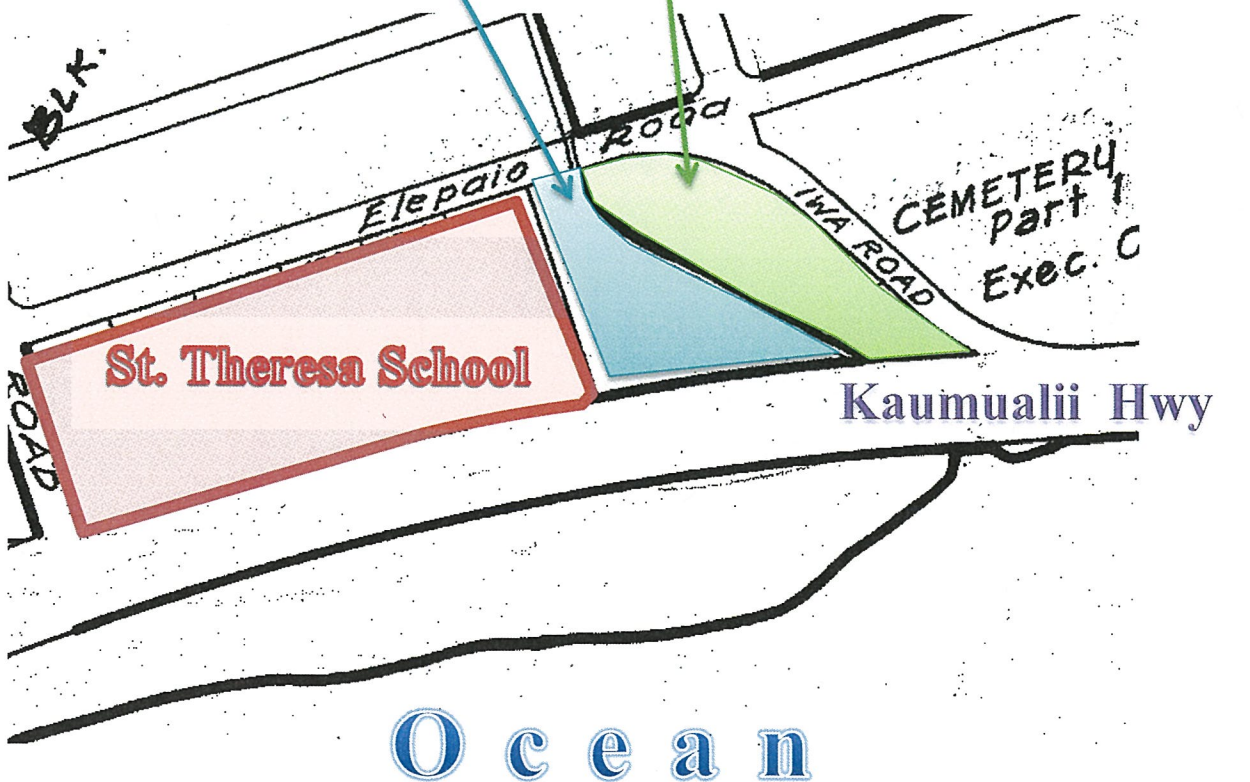
  
\_\_\_\_\_  
Suzanne D. Case, Chairperson

**SUBJECT**



**EXHIBIT A1**





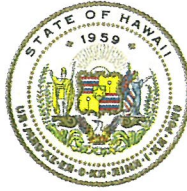
## EXHIBIT A2



**EXHIBIT A3**



DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

June 8, 2018

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Direct Lease to the Roman Catholic Church in the State of Hawaii, Saint Theresa School, for Parking Purposes.
Project / Reference No.:	PSF No. 17HD-103
Project Location;	Kekaha House Lots, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-3-004:054 and (4) 1-3-011:001.
Project Description:	Issuance of Direct Lease to the Roman Catholic Church in the State of Hawaii, Saint Theresa School, for Parking Purposes.
Chap. 343 Trigger(s):	Use of State lands.
Exemption Class No. and Item No. :	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing, and Item 47, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existed."
Cumulative Impact of Planned Successive Actions in Same Place Significant:	No. The request is a single occurrence in the area.
Action May Have Significant Impact on Particularly Sensitive Environment:	No. The action proposed will have no significant impact on any particularly sensitive environment.

**EXHIBIT B**



Analysis:

Over the past several years, the subject area has been used as a parking area by the St. Theresa School, for its Annual St. Theresa School Carnival. No improvements to the lands are planned. As such, staff believes that the requests would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties:

AGENCIES	COMMENTS
<b>County of Hawaii:</b>	
Planning Department	No response
Public Works	Concurs with exemption
<b>State of Hawaii:</b>	
DLNR - Historic Preservation	No response
<b>Other Agencies/ Interest Groups:</b>	
Office of Hawaiian Affairs	No response

Declaration:

It is recommended that the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

**Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201**

**Department of the Treasury**

**Date: June 2, 2017**

**Person to Contact:**

R. Meyer ID# 0110429

**Toll Free Telephone Number:**

877-829-5500

United States Conference of Catholic  
Bishops  
3211 4<sup>th</sup> Street, NE  
Washington, DC 20017-1194

**Group Exemption Number:**

0928

Dear Sir/Madam:

This responds to your June 2, 2017, request for information regarding the status of your group tax exemption.

Our records indicate that you were issued a determination letter in March 1946, that you are currently exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and are not a private foundation within the meaning of section 509(a) of the Code because you are described in sections 509(a)(1) and 170(b)(1)(A)(i).

With your request, you provided a copy of the *Official Catholic Directory for 2017*, which includes the names and addresses of the agencies and instrumentalities and the educational, charitable, and religious institutions operated by the Roman Catholic Church in the United States, its territories, and possessions that are subordinate organizations under your group tax exemption. Your request indicated that each subordinate organization is a non-profit organization, that no part of the net earnings thereof inures to the benefit of any individual, and that no substantial part of their activities is for promotion of legislation. You have further represented that none of your subordinate organizations is a private foundation under section 509(a), although all subordinates do not all share the same sub-classification under section 509(a). Based on your representations, the subordinate organizations in the *Official Catholic Directory for 2017* are recognized as exempt under section 501(c)(3) of the Code under GEN 0928.

Donors may deduct contributions to you and your subordinate organizations as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to them or for their use are deductible for federal estate and gifts tax purposes if they meet the applicable provisions of section 2055, 2106, and 2522 of the Code.

Subordinate organizations under a group exemption do not receive individual exemption letters. Most subordinate organizations are not separately listed in Publication 78 or the EO Business Master File. Donors may verify that a subordinate organization is included

**EXHIBIT C**

in your group exemption by consulting the *Official Catholic Directory*, the official subordinate listing approved by you, or by contacting you directly. IRS does not verify the inclusion of subordinate organizations under your group exemption. See IRS Publication 4573, *Group Exemption*, for additional information about group exemptions.

Each subordinate organization covered in a group exemption should have its own EIN. Each subordinate organization must use its own EIN, not the EIN of the central organization, in all filings with IRS.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Stephen A. Martin".

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements



**ST. THERESA SCHOOL - Kekaha**  
**BUDGET REPORT 2016-17**

**INCOME:**

41100 Tuition	473,510.00
41500 Financial Aid Scholarships	63,500.00
41600 Fees	15,875.00
42500 Exempt Function Income	12,000.00
45000 Rev Sub To Get - Fundraising	65,000.00
47110 Unrest Donations	25,000.00
47200 Subsidies	45,000.00
47800 Other Income	5,500.00
<b>Total Income:</b>	<b>\$ 705,385.00</b>

**EXPENSE:**

50108 Salaries & Wages	433,000.00
50300 Employee Benefits	40,000.00
50500 Employer Taxes	31,000.00
51808 Professional Services	18,825.00
51500 Insurance	35,000.00
51700 Leadership Development	6,000.00
52100 Supplies & Equip <\$SK	24,000.00
52551 Technology	25,000.00
52208 Cafeteria and Hall	2,000.00
52520 Bank Charges	1,500.00
52500 Other Services & Charges	3,000.00
5250 Administrative Supplies	1,000.00
5285 Admin Expense	300.00
52700 Instructional Dept Resource	2,000.00
5285 Professional Development	4,000.00
5290 Principals Office	5,000.00
62900 Fundraising Expense	46,000.00
53800 Repairs and Maintenance	5,000.00
54000 Utilities	23,000.00
57000 Taxes	1,500.00
58000 Depreciation	1,000.00
<b>Total Expense:</b>	<b>\$ 708,125.00</b>
<b>Profit/Loss :</b>	<b>\$ (2,740.00)</b>

**EXHIBIT D**

Bernard P. Carvalho, Jr.  
Mayor

Wallace G. Rezentes, Jr.  
Managing Director



Lyle Tabata  
Acting County Engineer

**DEPARTMENT OF PUBLIC WORKS**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 275, Lihue, Hawai'i 96766  
TEL (808) 241-4992 FAX (808) 241-6604

August 17, 2017

Wesley Matsunaga  
District Land Agent  
Department of Land and Natural Resources – Land Division  
3060 Eiwa Street, Room 208  
Lihue, HI 96766

Ref. No.: PSF# 17KD-103

SUBJECT: DIRECT LEASE TO THE ROMAN CATHOLIC CHURCH IN THE STATE OF  
HAWAII, ST. THERESA SCHOOL, FOR ADDITIONAL PARKING  
TMK: (4) 1-3-004: 054 AND 1-3-011: 001  
KEKAHA, WAIMEA, KAUAI

**PW 08.17.046**

Dear Mr. Matsunaga,

We reviewed the subject request from the Roman Catholic Church for the issuance of a 30-year lease for TMK: (4) 1-3-004: 054 and TMK: (4) 1-3-011:001 in Kekaha. St. Theresa's Church is requesting the issuance of a direct lease to use the property for additional parking.

We offer the following comments:

1. An existing ditch traverses across Parcel 1. The ditch is part of the "Mill Drain" system which serves as a drainage way and outlet for parts of the Kekaha Town watershed. The ditch needs to be maintained to minimize the flood risks to adjacent and upstream low lying areas. We recommend that the State retain the maintenance responsibilities for the ditch when approving any lease of Parcel 1.
2. A conceptual parking/traffic circulation plan shall be developed. Vehicular ingress and egress shall be limited to a single access point for each parcel unless approval for a second access point is granted by the County Engineer. The access connections shall be situated away from roadway intersections for safety purposes and to mitigate traffic congestion.
3. All grading and grubbing work shall be in compliance with the County's Sediment and Erosion Control Ordinance No. 808.

*An Equal Opportunity Employer*

**EXHIBIT E**

State DLNR, Land Division  
Issuance of Direct Lease to St. Theresa School  
August 17, 2017  
Page 2

PW 08.17.046

If you have any questions or need additional information, please contact Stanford Iwamoto at  
(808) 241-4896.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Moule", written over a horizontal line.

MICHAEL MOULE, P.E.  
Chief, Engineering Division

SI/MM  
Copy: Design and Permitting